



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/840,108

05/05/2004

Martin Weel

1116-064

9463

71739

7590

03/19/2008

CONCERT TECHNOLOGY AND WITHROW & TERRANOVA
100 REGENCY FOREST DRIVE , SUITE 160
CARY, NC 27518

EXAMINER

DAFTUAR, SAKET K

ART UNIT

PAPER NUMBER

2151

MAIL DATE

DELIVERY MODE

03/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/840,108	Applicant(s) WEEL, MARTIN	
	Examiner SAKET K. DAFTUAR	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11-18,31-32,34-44 and 50-55.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-18,31,32,34-44 and 50-55 is/are pending in the application.
- 4a) Of the above claim(s) 19-30 and 45-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-18,31,32,34-44 and 50-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/03/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election of claims 11-18, 31-32, 34-44 and 50-55 in the reply filed on January 23rd, 2008 is acknowledged. The election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 11-18, 31-32, 34-44 and 50-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Mimura et al. US Patent Number 7,218,611 B2 (hereinafter Mimura).

As per claim 11, Mimura discloses broadcasting a signal from a first device [broadcast apparatus 1] operative to be received by a second device

[reception apparatus 2], the signal including a request for a list of location identifiers (Abstract, figure 18, column 20, line 16 – column 21, line 42, see figures 1-2); receiving at least the at least one location identifier on the first device (Abstract, figure 18, column 20, line 16 – column 21, line 42, see figures 1-2); selecting the location identifier (Abstract, figure 18, column 20, line 16 – column 21, line 42, see figures 1-2); transmitting from the first device a password associated with the location identifier (Abstract, figure 18, column 20, line 16 – column 21, line 42, see figures 4a-4b and 5a -5b); and receiving at the first device at least one device identifier identifying a device associated with the location identifier (Abstract, figure 18, column 20, line 16 – column 21, line 42; see figures 4a-4b and 5a -5b).

As per claim 12, Mimura discloses the location identifier comprises a name associated with one of a physical realm and a logical realm (Abstract, figure 18, column 20, line 16 – column 21, line 42; see figures 4a-4b and 5a -5b).

As per claim 13, Mimura discloses selecting, at the first device, the at least one device identifier identifying the device associated with the location identifier, and controlling the device associated with the location identifier (Abstract, figure 18, column 20, line 16 – column 21, line 42; see figures 4a-4b and 5a -5b).

As per claim 14, Mimura discloses the device associated with the location identifier comprises the second device (Abstract, figure 18, column 20, line 16 – column 21, line 42; see figures 4a-4b and 5a -5b).

As per claim 15, Mimura discloses controlling the device associated with the location identifier comprises causing the device associated with the location identifier to render at least a portion of a media item (Abstract, figure 18, column 20,line 16 – column 21,line 42, column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claim 16, Mimura discloses controlling the device associated with the location identifier further comprises transferring a media item from the device associated with the location identifier to the first device (Abstract, figure 18, column 20,line 16 – column 21,line 42, column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claim 17, Mimura discloses the broadcasting a signal comprises broadcasting a signal from a first device operative to be received by a plurality of second devices, wherein each of the plurality of second devices is operatively connected to a same local area network (Abstract, figure 18, column 20,line 16 – column 21,line 42, column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claim 18, Mimura discloses the broadcasting a signal comprises broadcasting a signal from a first device operative to be received by a plurality of second devices, wherein each of the plurality of second devices is operatively coupled to a network selected from the group consisting of a local area network, a wide area network, a remote local area network, a wireless network, a cellular

phone network, and the Internet (Abstract, figure 18, column 20,line 16 – column 21,line 42, column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claims 31-32 and 34-39, they do not teach or further define over the limitation as recited in claims 11-18, Mimura discloses therefore, claims 31-32 and 34-39 are rejected under same scope as discussed in claims 11-18, supra.

As per claim 40, Mimura discloses the first device comprises at least one of a PDA, a palmtop computer, a laptop computer, and a cellular telephone (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41).

As per claim 41, Mimura discloses wirelessly broadcasting, on a first device, a location ID (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b);wirelessly receiving, on a second device, the location ID(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b);entering, on the second device, a password associated with the location ID(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b);effecting the playing of a media item on the first device by the second device ((Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-

2; column 14,lines 14-41 ; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claim 42, Mimura discloses the effecting the playing of a media item further comprises communicating with the second device over a local area network to which the second device is connected (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claim 43, Mimura discloses the affecting the playing of a media item further comprises communicating with the second device over a wide area network to which the second device is connected (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claim 44, Mimura discloses the wide area network comprises the Internet (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b).

As per claim 50, Mimura discloses moving a first device operative to receive a wireless broadcast of at least one location ID into a range of a network having connected thereto at least one second device operative to wirelessly broadcast at least one location ID (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b);receiving, at the first device, a

location ID from the at least one second device(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b);displaying, on the first device, the location ID received from the at least one second device(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41, see figures 12a- 12b; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b);selecting, on the first device, the location ID(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b);entering, on the first device, a password associated with the selected location ID (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41; column 1,line 13- column 2,line 26; see figures 4a-4b and 5a -5b) ; and selecting, on the first device, a song to be played on the at least one second device (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41) .

As per claim 51, Mimura discloses the at least one second device broadcasting a plurality of location IDs (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41);receiving at the first device the plurality of location IDs from the at least one second device (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41);displaying, on the first device, the plurality of location IDs (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-

41, see figures 12 a- 12b); and selecting, on the first device, one of the plurality of location IDs(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41).

As per claim 52, Mimura discloses receiving, on the at least one second device, the password entered into the first device (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41);authenticating the password(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41); andsending to the first device, in response to a successful authentication, a list of device IDs of devices on the network(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41).

As per claim 53, Mimura discloses receiving, on the first device, the list of device IDs sent by the at least one second device, displaying on the first device the device IDs(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41); and selecting one of the device IDs. (Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41).

As per claim 54, Mimura discloses the list of devices is transmitted from a server operatively connected to the network through a wide area network(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41).

As per claim 55, Mimura discloses transmitting the list of devices from a server operatively connected to the network through a wide area network(Abstract, figure 18, column 20,line 16 – column 21,line 42, see figures 1-2; column 14,lines 14-41).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See accompanying PTO 892 form.

a. Dynamic Streaming Media Management by O'Rourke et al. US Patent Number 6,990,497 B2.

b. Streaming Media Delivery on Multicast Networks for Network and Server Bandwidth Minimization and Enhanced Personalization by Weber et al. US Patent Number 7,020,710 B2.

6. A shortened statutory period for reply to this non-final action is set to expire **THREE MONTHS** from the mailing date of this action. Failure to respond within the period for response will result in **ABANDONMENT** of the applicant (See 35 U.S.C 133, M.P.E.P 710.02,71002 (b)).

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAKET K. DAFTUAR whose telephone number is (571)272-8363. The examiner can normally be reached on 8:30am-5:00pm M-W.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. K. D./
Examiner, Art Unit 2151
/John Follansbee/
Supervisory Patent Examiner, Art Unit 2151